

AUG 25 2006

Response dated August 25, 2006  
Office Action dated February 27, 2006

Application No 10/023,698

**REMARKS**

The Office Action mailed February 27, 2006 and the Advisory Action mailed May 19, 2006 have been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 33-38, 41, 46, 47-50, 52, 54, and 56-57 are pending in this application.

**Amendment to the Claims**

Independent claims 33, 34, 36, 46 and 56 have been amended to clarify the feature of the claims relating to the location of the identification of information. No new matter has been added.

**Claim Objections**

We amended claim 46 in the amendment filed after the Final Office Action, which was mailed on February 27, 2006. The Examiner indicated that these amendments would be entered.

**Claim Rejections Under 35 USC §102**

Claims 33-38, 41, 46, 47-50, 52, 54, and 56-57 stand rejected under 35 USC §102(e) as being anticipated by U.S. Patent Application Number 2004/0133793 ("Ginter").

Ginter deals generally with a virtual distribution environment ("VDE") for managing electronic rights protection in a secure manner. The invention at most discloses the installation of hardware and/or software at end user "electronic appliances" such as computers, set top boxes for televisions, telephones and sound systems to manage electronic rights protection and the integrity and confidentiality of content accessed by a user. In contrast, the claims of the present invention relate to "detect[ing] along the communication path a predetermined tag within content" during the "distribution of content over a network or networks" and "report[ing] the detection together with information identifying a sender and/or recipient of the content."

As previously argued in the amendment filed on April 24, 2006, Applicant respectfully submits that nothing in Ginter discloses the detection of predetermined tags along a communication path.

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Claims 33-36, 46, 52 and 56

The Office Action states that claims 33-36 and 52 are anticipated by Ginter, referencing paragraphs 221-222, 287, 425-487, and 1721-1734. However, the Office Action simply lists paragraph numbers of Ginter at the end of each claim and does not explain how Ginter discloses any features of the claims. The paragraphs specifically cited by the Office Action were thoroughly reviewed and are discussed below.

Applicant respectfully submits that Ginter does not disclose "detecting along the communication path a predetermined tag within content passed along the communications path" and also does not disclose reporting "the detection together with information identifying a sender and/or recipient of the content" by a network device as claimed in claims 33-36 52.

The Advisory Action states that paragraphs 221-222 (in conjunction with paragraphs 115 and 173) disclose "one type of such tags in order to control and distribute content as claimed." However, in addition to the arguments set forth in Applicant's response filed on April 24, 2006, Applicant respectfully submits that neither paragraphs 221-222 cited in the Final Office Action mailed on February 27, 2006, nor those paragraphs in conjunction with paragraphs 115 and 173 cited in the Advisory Action mailed May 19, 2006 disclose detecting, along the communication path, a predetermined tag within content passed along the communications path. As stated above, Applicant has amended each of the independent claims to clarify that the detection of the tags is not at end user devices.

As stated in Applicant's response filed on April 24, 2006, Applicant respectfully submits that paragraphs 173, 287, 425-487, and 1721-1734, cited in the Final Office Action mailed on February 27, 2006, do not appear to be relevant to the invention claimed in claims 33-36 and 52. Nothing in those paragraphs appears to disclose the claimed feature of "detection along the communication path of a predetermined tag within content passed along the communication path" and it does not disclose reporting such detection "together with information identifying a sender and/or recipient of the content."

In addition to the arguments submitted on April 24, 2006, in response to the Final Office Action mailed on February 27, 2006, Applicant has amended the claim in order to clarify that the detection takes place along the communication path. Therefore, Applicant respectfully submits

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that Ginter does not anticipate the claim 56 of the present application.

Applicant did not find anything in the cited passages or elsewhere in Ginter that discloses the features of independent claims 33-36, 46, 52 or 56. Specifically, Applicant submits that the cited passages do not disclose at least the features of claims 33-36 and 52 whereby a network device will "detect, along [the] communications path, a predetermined tag within [the] content passed along a communication path" and report the detection "together with information identifying a sender and/or recipient of the content."

Claims 54, 37-38, 41 and 47-50

*Claim 54*

With respect to claim 54, Applicant respectfully submits that because claim 54 is an apparatus performing the steps of the method claimed in claim 46 that claim 54 is allowable for at least the same reasons as explained with respect to claim 46 above. Applicant respectfully submits that claim 54 is not anticipated by Ginter and is in condition for allowance because nothing in Ginter discloses a computer program that performs at least the method steps of "obtaining content, placing the content and tag into a payload portion of the message, and transmitting the message over the network including the device."

The claims have been rejected based on prior art that provides security at user terminals. In contrast, a feature of the present claims is that the detection of the embedded tags occurs along a communications path. The specification clarifies how the present claims differ from the cited reference and prior art. For example, paragraphs 4 and 5 of the specification state:

Hitherto, various proposals have been made to counter the loss in revenue to right holders. Broadly, these have constituted, on the one hand, the creation of technical barriers to unauthorized copying of content and on the other hand, the development of transactional controls. In many cases, both approaches have been used in tandem to strictly control the distribution of content to authorized recipients namely those users who have paid the appropriate fee to the right holder.

In order to prevent unauthorized attempts to obtain the content, it has been found necessary to develop techniques that are ever more sophisticated.

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Also, paragraph 17 of the specification distinguishes the claims further (emphasis added):

The invention provides an open solution to the problem of digital rights management of copyright content in particular. Content may be received in a terminal from an external source and then passed to another terminal where the content can be accessed without any effect on the embedded tag. Such an open solution provides ~~immense benefits in that it may be applied to existing technology without the need for modification of terminals, in particular.~~ **Hitherto, as has previously [been] stated, digital rights management requires the presence of encryption, decryption and digital right management software on the terminal.** Furthermore, the invention is applicable to any network or combination of networks where billing structures exist or could be implemented to bill usage of terminals connected to that network. Thus, PC usage could be billed by a respective ISP and mobile terminal usage could be billed by a respective network operator.

Applicant respectfully submits that the above citations of the specification and the language recited in the claims distinguishes the present claims from the prior art.

*Claims 37-38, 41 and 47-50*

With respect to dependent claims 37-38, 41, and 47-50, Applicant respectfully submits that each of these claims ultimately depends from one of claims 34, 36, or 46, and therefore, that claims 37-38, 41, and 47-50 are each allowable for at least the same reasons as argued above with respect to claims 34, 36 and 46.

Applicant respectfully submits that the instant application is in condition for allowance and respectfully solicits prompt notification of the same. Should the Examiner believe that a conversation with Applicant's representative would be useful in the prosecution of this case, the Examiner is invited and encouraged to call Applicant's representative.

Respectfully submitted,

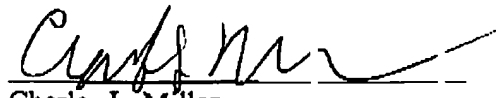
**BANNER & WITCOFF, LTD.**

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